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Regulatory
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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board of Education
Virginia Administrative Code (VAC) citation	8 VAC 20 -360
Regulation title	Rules Governing General Educational Development Certificates
Action title	Fee increases and revised language to incorporate recent amendments to the <i>Code of Virginia</i> and changes to the Tests of General Educational Development (GED)
Document preparation date	10/28/2003

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style, and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The *Rules Governing General Educational Development (GED) Certificates* (8 VAC 20-360-10 et seq.) were last amended in 1980. Since that time the GED Testing Service of the American Council on Education has developed and released a new version of the tests and established new requirements that are not reflected in the current regulations. Additionally, the *Code of Virginia* has been amended to include new GED programs for certain students that are at least sixteen years of age and currently enrolled in public schools.

The GED Certificate is a well-respected and nationally recognized credential. To ensure the integrity of the GED credential and to ensure that the regulations related to the credential are consistent with the intent of the *Code of Virginia*, action should be taken to revise the regulations so that they reflect current program practices.

Legal basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The Virginia Board of Education is the promulgating entity. The legal authority to promulgate changes to 8 VAC 20-360-10 is found in §22.1-224 et seq. of the *Code of Virginia*. The Code provides discretion to the Board of Education in promulgating "appropriate standards and guidelines for adult education programs," including participation in preparing for and taking the GED Tests. It further requires the Board of Education to "assist school divisions with all diligence in meeting the educational needs of adults participating in adult education programs to master the requirements for and earn a Virginia General Educational Development (GED) Certificate or high school diploma." Authority is mandatory.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the regulation is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

Successful achievement on the GED Tests provides adults and eligible secondary students who have not or will not earn a high school diploma the opportunity to earn a well-recognized secondary credential. Those who pass the GED Tests earn a GED Certificate issued by the Virginia Department of Education. Most employers, colleges, universities, and all of the armed forces recognize the GED Certificate.

A revision of the existing GED regulation is intended to accurately reflect the *Code of Virginia* and directives and guidelines provided by the Virginia Department of Education since 1980. The revisions will also address current GED Testing Service policies to which the Department of Education must comply. The changes will have no adverse effect on the GED program consumers.

Specifically, the current regulation pertaining to eligibility to earn a GED certificate is inconsistent with language in the *Code of Virginia*, § 22.1-254.2. Also, the scoring criteria to earn a GED Certificate have changed substantially since the release of the new version of the Tests of General Educational Development (GED). New language is necessary to ensure that the GED Certificate is awarded appropriately and meets the high educational standards of the Board of Education.

An increase in fees is recommended to ensure the quality of the local testing programs. Local testing programs have experienced an increase in operating GED testing programs due to increased costs of testing materials and test administration costs. Fees will be recommended that are at or lower than other state jurisdictions that charge individuals to take the GED Tests. Separate fee schedules for in-state and out-of-state individuals will be considered.

[Note: The Tests of General Educational Development (GED) are developed by the American Council on Education to enable persons who have not graduated from high school to demonstrate the attainment of abilities normally associated with completion of a high school program of study. The Virginia GED program provides an opportunity to recognize the educational development of individuals as a result of their life and/or employment experiences. The GED Battery includes five tests that measure the skills considered to be the major outcomes of a high school education. The tests focus on the major use of skills and concepts rather than upon recall of specific facts. The questions focus on the general abilities to

analyze, evaluate, and draw conclusions. The subject areas of the tests are as follows: Test 1- Writing Skills; Test 2- Social Studies; Test 3- Science; Test 4- Interpreting Literature and the Arts; Test 5- Mathematics.]

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

The only viable option considered in lieu of raising testing fees is to allow each local GED testing program to assess an “administrative fee” to help cover the rising costs of test administration. However, such action could result in widely disparate costs to GED candidates. In certain cases, those individuals least able to afford the price of testing might have to pay the most.

No other alternatives to the proposed regulatory action necessitated by the changes in the *Code of Virginia* and revisions to the GED Tests were considered to date. In this case, regulatory action is required.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

The proposed Regulations Governing General Educational Development Certificates will not erode the authority or rights of parents in the education, nurturing, and supervision of their children. Adults earning a GED Certificate will be better prepared to assist in meeting their own children’s educational needs.

Earning a GED Certificate will assist recipients in increasing economic self-sufficiency. Earning a GED Certificate also will improve the self-pride of individuals and encourage them to take more responsibility for themselves and their families. The proposed regulations will not erode marital commitment. GED Certificate recipients may increase their earning power if they use opportunities to increase their education and training related to employment.